## BLACKWELL SANDERS PEPER MARTIN

720 Olive Street Suite 2400 St. Louis, MO 63101 Tel (314) 345-6000 Fax (314) 345-6060 WEBS(TE: www.blackwellsanders.com RECEIVED
CENTRAL FAX CENTER

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#### FACSIMILE COVER SHEET

DATE:

December 3, 2004

TIME:

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RECIPIENT

FAX NUMBER 703-872-9306

COMPANY/FIRM NAME
USPTO-Office of Petitions

PHONE NUMBER

Ms. Retta Williams

USPTO – Office of Petitions

FROM:

Samuel Digirolamo

DIRECT DIAL:

(314) 345-6225

DIRECT FAX:

(314) 345-6325

OPERATOR:

Jennifer C.

EXT. No.:

6620

BILLING CODE:

718149.2

TOTAL # OF PAGES:

13

MESSAGE:

Ms. Williams:

Attached hereto is our Petition to Withdraw Holding of Abandonment of U.S. Patent Application No. 10/064,898 which was faxed to the USPTO on August 10, 2004 as evidenced by the Auto-Reply Facsimile Transmission received from the USPTO. All documents attached to our original Petition are likewise attached hereto. If you have any questions regarding this Petition, please call me at 314-345-6225.

Please acknowledge receipt of this Petition as we have been informed on numerous occasions that the USPTO had received this Petition as evidenced the Auto-Reply Facsimile Transmission documents attached hereto.

Sam Digirolamo

PRIVILEGED AND CONFIDENTIAL information intended only for the use of the addressec(s) named above. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient(s), please note that any dissemination, distribution or copying of this communication is strictly prohibited. Anyone who receives this communication in error should notify us immediately by telephone and return the original message to us at the above address via the U.S. Mail.

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**Auto-Reply Facsimile Transmission** 



TO:

Fax Sender at 3143456060

Fax Information Date Received: Total Pages:

8/10/2004 4:46:38 PM [Eastern Daylight Time]

9 (including cover page)

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OPERATOR		Christopher	Ext. No.: Total # of Pages	6620
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## RECEIVED CENTRAL FAX CENTER

Petition

Inventor: Harold P. Amann Attorney Docket No.: 718149.2 DEC 0 3 2004

PATENT

718149.2

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Harold P. Amann

Examiner: GREENE, Jason M.

Serial No.: 10/064,898

Group Art Unit: 1724

Filed: August 27, 2002

Attorney Docket No.: 718149.2

For: FILTER HOUSING ASSEMBLY

Customer No.: 27,128

FOR USE IN OXYGEN

Confirmation No.: 7976

CONCENTRATORS AND OTHER COMPRESSORS

Last Office Action: November 3, 2003

#### PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT TO 37 CFR §1.181

Mail Stop: ISSUE FEE
Commissioner for Patents
P.O. Box 1450

Alexandria, VA 22313-1450 Via Facsimile: 703-872-9306

Sir:

In response to the Notice of Abandonment mailed July 26, 2004, Applicant responds as follows.

Applicant received a Notice of Abandonment in the above-identified pending patent application dated July 26, 2004, a copy of which is enclosed herewith. The Notice of Abandonment indicates that the issue fee and publication fee were not paid within the statutory period. Applicant respectfully contends that the present application is not in fact abandoned and

12-03-04 03:18pm From-BSPM + T-816 P.005/013 F-075

Petition

Inventor: Harold P. Amann Attorney Docket No.: 718149.2

that the issue and publication fee was timely paid within the statutory period of three (3) months from the mailing date of the Notice of Allowance. The Notice of Allowance was mailed on March 9, 2004 and established the statutory due date for payment of the issue fee and publication fee as June 9, 2004. On May 27, 2004, Applicant paid the issue fee and publication fee via fax transmission. Applicant is also enclosing herewith a photocopy of the original issue fee transmittal form executed by Applicant's attorney, which fee transmittal form likewise includes a certificate of mailing or transmission dated May 27, 2004. Also enclosed herewith is the fax transmission confirmation sheet indicating that the issue fee transmittal form was faxed at 4:10 p.m. on May 27, 2004 and that such transmission was okay or received. The fax transmission confirmation sheet is sufficient evidence according to 37 CFR §1.8 (a)(1) and (b)(2) to establish a prima facie case that the issue fee and publication fee for the above-identified pending application was timely paid.

Applicant therefore respectfully requests that the Notice of Abandonment be withdrawn and that deposit account number 11-0160 be charged with the total issue fee and publication fee due in this matter, namely, \$965.00.

Respectfully submitted,

Date: 10 August 04

Samuel Digirolamo

Reg. No. 29,915

Blackwell Sanders Peper Martin LLP

720 Olive Street, 24th Floor

St. Louis, Missouri 63101

(314) 345-6225

ATTORNEYS FOR APPLICANT

Petition

Inventor: Harold P. Amann Attorney Docket No.: 718149.2

#### Attachments:

- (1) Notice of Abandonment
- (2) Issue Fee Transmittal
- (3) Fax Confirmation Sheet Transmission

12-03-04

03:19pm

From-BSPM

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MESSAGE CONFIRMATION

AUG-10-2004 03:47 PM TUE

FAX NUMBER

: 3143456060

NAME

: BLACKWELL SANDERS

T-816 P.007/013 F-075

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## BLACKWELL SANDERS PEPER MARTIN

729 UKI-te Street Sunte 2420 St., Lorum, MC 63101 Tal. (\$44) 345-4700 Fax (\$45) 345-4660 WERST E. www.blagtowstops.darp.com

#### FACSIMILE COVER SHEET

DATE: August 10, 2004 TIME: 3:37 PM RECIPIENT FAX NUMBER COMPANY/FIRM NAME PHONE NUMBER MAIL STOP: ISSUE FEE 703-872-9306 USPTO FROM: Samuel Digirolamo DIRECT DIAL: (314) 345-6225 DIRECT FAX: (314) 345-6325 OPERATOR: Jennifer Christopher EXT. NO.: 6620 BILLING CODE: 718149-2 TOTAL # OF PAGES: 8

#### MESSAGE:

Attached find PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT TO 37 CFR §1.181 - Application Serial No. 10/064,898.

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## MESSAGE CONFIRMATION

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720 CRIVE ZIMEN SEGRE 2000 St. LOVID. MQ 63101 Tel (250) 163-6000 Fee (210) 155-6060

#### FACSIMILE COVER SHEET

DATE:	August 10, 2004	TIME:	3:37 PM	
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FROM:	Samuel Digirolamo			
DIRECT DIAL:	(314) 345-6225	DIRECT FAX:	(314) 345-6325	
OPERATOR:	Jennifer Christopher	Ext. No.:	6620 r 8	
BILLING CODE:	718149-2	TOTAL # OF PAGES:		

#### MESSAGE:

Attached find PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT TO 37 CFR §1.181 – Application Serial No. 10/064,898.

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## United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Advisor COMMISSIONER FOR PATENTS Advantage, Virgina 22313-1450 WALESTONERS OF THE PATENTS WALESTONERS WALESTONERS OF THE PATENTS WALESTONERS WALESTONERS WALESTONERS WALESTONERS WALESTONERS WA

		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
APPLICATION NO.	PILING DATE		718149.2	7976	
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			EXAMINER		
	590 07/26/2004		GREENE,	IASON M	
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SUITE 2400			1724	<u> </u>	
ST. LOUIS, M	1O 63101	•		_	
			DATE MAILED: 07/26/200	4	

Please find below and/or attached an Office communication concerning this application or proceeding.

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AUG 03 2004

United States Patr

T-816 P.010/013 F-075

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Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231

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		NOTICE OF ABANDONMENT			
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П Арг	plicant's failure to timely	file a proper reply to the Office letter mailed on		<del></del>	_ <del></del> ·
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	extension of time	of month(s)) which expired on		<b>—</b> ·	
		was received on, but it does r	not constitute	a proper rep	ly under
•	37 CFR 1.113 to 1 (A proper reply u	the final rejection.  Inder 37 CFR 1.113 to a final rejection consists of application in condition for allowance; (2) a time	only of; (1) a to by filed Notice	imely filed an	nendment vith appeal fee);
	or (3) a timely file	d Request for Continued Examination (RCE) in	compliance w	vith 37 CFR 1	.114).
	A reply was receiproper reply, to the	ved on, but it does not constitut to en not rejection, See 37 CFR 1.85(a) and 1	e a proper re ,111. (See ex	ply, or a bona planation in t	a fide attempt at a the last box below).
	No reply has been	n received.			
Ap of	plicant's failure to timely three months from the r	y pay the required issue fee and publication fee, nailing date of the Notice of Allowance (PTOL-8	if applicable, 5).	within the st	atutory period
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Ap	oplicant's failure to timely a Notice of Allowability (l	y file corrrected drawings as required by, and wit PTOL-37).	hin the three	-month period	d set in,
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The for	ie decision by the Board r seeking court review o	l of Patent Appeals and Interferences rendered of f the decision has expired and there are no allow	on ved claims.	and becau	use the period
Pe	ne reason(s) below: titions to revive under 37 CFR 1 nimize any negative effects on p	.137(a) or (b), or requests to withdraw the holding of abandonmatent term.	ent under 37 CF	R 1.181, should b	o promptly filed to

## Atta ment to Notice of Abanda nent

# For questions concerning the notice contact Office of Patent Publication Image Assistance Center: 888-786-0101.

Information is also available on the USPTO Internet web site: http://www.uspto.gov/web/patents/pubs/abandonnotice.html

## Respond to the Notice of Abandonment by one of the following:

 Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.181(f). Certificate of Mailing 37 CFR § 1.10 "Express Mail" mailing or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 By facsimile: 703-872-9306

 Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and anesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail:

Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By facsimile: 703-872-9306

DA 1962mme. 102-015-2200

## 3. Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <a href="http://www.uspto.gov">http://www.uspto.gov</a>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By facsimile: 703-872-9306

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment

#### PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where coppropriate. All further correspondence including the Patent, advance orders and positication of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

27128

7590

03/09/2004

BLACKWELL SANDERS PEPER MARTIN LLP 720 OLIVE STREET SUITE 2400 ST. LOUIS, MO 63101

Note: A certificate of mailing can only be used for domestic mailings of the Fec(s) Transmiral. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(a) Transmittal is being deposited with the United States Possal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

Jennifer Christopher (Signatus (Daz

CONFIRMATION NO. ATTORNEY DOCKET NO. FIRST NAMED INVENTOR FILING DATE APPLICATION NO. 7976 718149.2 ljarold P. Amann 10/064,898 08/27/2002

TITLE OF INVENTION: FILTER HOUSING ASSEMBLY FOR USE IN OXYGEN CONCENTRATORS AND OTHER COMPRESSORS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBL	CATION FEE	TOTAL PEE(S) DUE	DATE DUE		
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Issue Fee			<ul> <li>□ A check in the amount of the fee(s) is enclosed.</li> <li>□ Payment by credit card. Form PTO-2038 is attached.</li> </ul>					
Publication Fee	f Copies		A The Director is hereby authorized by charge the required fee(s), or credit any everpayment, Deposit Account Number 1 - 1 6 0 (enclose an extra copy of this form).					
Director for Pater Sie San	octoder apply the Issue Fee				l issue fee to the application			
other than the applicant interest as shown by the This collection of inform obtain or retain a benefit applicant. Confidential estimated to take 12 mis.	nd Publication Fee (if require a registered anomoly of records of the United States assisting the public which is to lity is governed by 37 CI in the public which is to lity is governed by 35 U.S.C. autes to complete including out to the USFTO. Time on the amount of time you this burden, should be see Offlice, U.S. Department of the USFTO FEES OR COMP.	Fenent and Trademark O R 1.311. The informati file (and by the USPT 122 and 37 CFR 1.14. gathering, preparing, or	ffice. on is required to 0 to process) an This collection is ad submitting the					

## MESSAGE CONFIRMATION

## MAY-27-2004 04:11 PM THU

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: 31434560<del>6</del>0

NAME

: BLACKWELL SANDERS

AME/NUMBER

: 79140#718149#2#917037467000#

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#### PARY B - PEE(S) TRANSMITTAL

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Mail Stop 155UE FEE Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 27313-14

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TITLE OF INVENTION: FILTER HOUSING ASSEMBLY FOR USE IN CRYCEN CONCENTRATORS AND OTHER COMPRESSORS

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